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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,367	04/12/2001	Shimen K. Claxton	12-1147	3126

23400 7590 02/16/2006

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

MEHRA, INDER P

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

57

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/833,367</p>	<p>Applicant(s) CLAXTON ET AL.</p>	
	<p>Examiner Inder P. Mehra</p>	<p>Art Unit 2666</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

- 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
 - (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ They raise the issue of new matter (see NOTE below);
 - (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

- 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
- 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
- 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 2-7,11-17 and 20-23.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

- 8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
- 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
- 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

- 11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
- 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
- 13. ☒ Other: See Continuation Sheet.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues, "In alleging that Arnold teaches such features, speech encoder 605, channel encoder and multiplexer 607 are cited as allegedly amounting to the claimed first data encoder for encoding a first transmit data, second data encoder for encoding a second transmit data, and the multiplexer. Applicants respectfully disagree with this characterization. Further, Applicant argues that speech encoder 605 and channel encoder 607 are in series and cannot teach the claimed features. In response, it is stated that a number of separate fully duplex demand-assigned digital channels can be provided to allow a number of portables to simultaneously access a single port on a multiplexed basis. These encoders are located in each portable which are multiplexed by digital multiplexer, refer to Arnold' col. 2 lines 7-20, mentioned office action paragraph 3.

Applicant argues, "speech encoder encodes an analog speech signal---. "speech encoders cannot fairly be said to teach producing a first transmit signal. Further, Applicant argues, "there is simply no teaching or suggestion in Arnold that channel encoder and multiplexer 607 selects between a first encoder and a second encoder. In response, it is stated that Arnold discloses, "The portable digitally transmits in bursts ----. By utilizing TDM/TDMA, each port can simultaneously communicate with multiple portables in different time slots, refer to col. 6 lines 60-65.

In light of above explanation, arguments by applicant are not persuasive.

Continuation of 13. Other: Supplemental Form PTO-892 including US Patent No. 6,847,807 is enclosed..

Inder Pal Mehra 2/14/06

Ton Dang

DANG TON
PRIMARY EXAMINER